

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

MAGTEN ASSET MANAGEMENT CORP. and
LAW DEBENTURE TRUST COMPANY OF
NEW YORK,

Plaintiffs,

V.

NORTHWESTERN CORPORATION,

Defendants.

C.A. No. 04-1494-JJF

MAGTEN ASSET MANAGEMENT
CORPORATION,

Plaintiff,

v.

MICHAEL J. HANSON and ERNIE J. KINDT,

Defendants.

C.A. No. 05-499-JJF

**AFFIDAVIT OF KIMBERLY A. BEATTY
IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT OF
DEFENDANTS MICHAEL J. HANSON AND ERNIE J. KINDT**

STATE OF MONTANA

)

:SS

County of Lewis and Clark

)

I, KIMBERLY A. BEATTY, being first duly sworn upon my oath, depose and state that:

1. I am an attorney at the law firm of BROWNING, KALECZYC, BERRY & HOVEN, P.C., representing Defendants Michael J. Hanson and Ernie J. Kindt. I offer this Affidavit in support of Defendants' Motion for Summary Judgment.

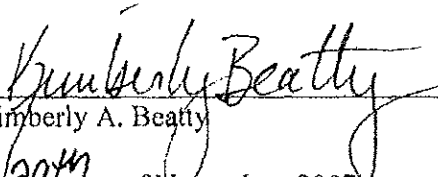
2. Attached to this Affidavit as **Exhibit 1** is a true and correct copy of the prospectus for the Montana Power Capital I, 8.45% Cumulative Quarterly Income Preferred Securities, Series A (QUIPS) dated November 1, 1996 ("QUIPS Prospectus").
3. Attached to this Affidavit as **Exhibit 2** is a true and correct copy of the Guarantee Agreement Between The Montana Power Company and The Bank of New York (NOR009092-9113) dated November 1, 1996.
4. Attached to this Affidavit as **Exhibit 3** is a true and correct copy of the Indenture for Unsecured Subordinated Debt Securities relating to Trust Securities (NOR009214-9296) dated November 1, 1996.
5. Attached to this Affidavit as **Exhibit 4** is a true and correct copy of The Montana Power Company's Officer's Certificate dated November 6, 1996.
6. Attached to this Affidavit as **Exhibit 5** is a true and correct copy of the Limited Liability Company Operating Agreement of The Montana Power L.L.C. (NOR200850-200855) dated September 28, 2000.
7. Attached to this Affidavit as **Exhibit 6** is a true and correct copy of the Articles of Organization of The Montana Power, L.L.C. (NOR200843-200849) dated September 28, 2000.
8. Attached to this Affidavit as **Exhibit 7** is a true and correct copy of the Unit Purchase Agreement by and between NorthWestern Corporation, Touch America Holdings, Inc. and The Montana Power Company (NOR002632-2700) dated September 29, 2000.
9. Attached to this Affidavit as **Exhibit 8** is a true and correct copy of Final Order from the Public Service Commission of the State of Montana, Docket No. D2001.1.5 (NOR001080-1124) dated January 31, 2002.
10. Attached to this Affidavit as **Exhibit 9** is a true and correct copy of the NorthWestern Energy, L.L.C. Written Consent of Sole Member and Manager to Action in Lieu of Meeting (NOR001290-1292) dated August 7, 2002.
11. Attached to this Affidavit as **Exhibit 10** is a true and correct copy of NorthWestern Corporation's Board of Directors Minutes of Regular Meeting (NOR009568-009583) dated August 7, 2002.

12. Attached to this Affidavit as **Exhibit 11** is a true and correct copy of the Second Supplemental Indenture (NOR009992-9998) dated August 13, 2002.
13. Attached to this Affidavit as **Exhibit 12** is a true and correct copy of the Amendment to Guarantee Agreement (NOR009397-9401) dated August 13, 2002.
14. Attached to this Affidavit as **Exhibit 13** is a true and correct copy of NorthWestern Energy L.L.C. Officer's Certificate Pursuant to Section 102 of the Indenture (BNY-M00446-447) dated August, 2002.
15. Attached to this Affidavit as **Exhibit 14** is a true and correct copy of the NorthWestern Energy, L.L.C. Resolution of Managing member (NOR009413) dated November 5, 2002.
16. Attached to this Affidavit as **Exhibit 15** is a true and correct copy of the Asset and Stock Transfer Agreement by and between NorthWestern Energy, L.L.C. and NorthWestern Corporation (NOR000074-164) dated November 15, 2002.
17. Attached to this Affidavit as **Exhibit 16** is a true and correct copy of the Maintenance and Operating Costs Support Agreement (NOR000217-227) dated November 15, 2002.
18. Attached to this Affidavit as **Exhibit 17** is a true and correct copy of the Environmental Liabilities Support Agreement (NOR000230-242) dated November 15, 2002.
19. Attached to this Affidavit as **Exhibit 18** is a true and correct copy of the Officer's Certificate (NOR000920-921) dated November 15, 2002.
20. Attached to this Affidavit as **Exhibit 19** is a true and correct copy of the Third Supplemental Indenture (NOR009730-9736) dated November 15, 2002.
21. Attached to this Affidavit as **Exhibit 20** is a true and correct copy of the Assumption Agreement (QUIPs Guarantee) (NOR009877-9879) dated November 15, 2002.
22. Attached to this Affidavit as **Exhibit 21** is a true and correct copy of the Assignment and Assumption Agreement (QUIPs Agreements) (NOR009880-9882) dated November 15, 2002.
23. Attached to this Affidavit as **Exhibit 22** is a true and correct copy of the Notice to the Bank of New York (NOR000909-911) dated November 15, 2002.
24. Attached to this Affidavit as **Exhibit 23** is a true and correct copy of NorthWestern Corporation's Form 8-K filed December 13, 2002 (period: December 13, 2002).

25. Attached to this Affidavit as **Exhibit 24** is a true and correct copy of selected pages NorthWestern Corporation's Form 10-K for the fiscal year ended December 31, 2002.
26. Attached to this Affidavit as **Exhibit 25** is a true and correct copy of NorthWestern Corporation's Form 8-K filed April 16, 2003 (period: April 16, 2003).
27. Attached to this Affidavit as **Exhibit 26** is a true and correct copy of NorthWestern Corporation's Form 8-K filed May 15, 2003 (period: May 15, 2003).
28. Attached to this Affidavit as **Exhibit 27** is a true and correct copy of NorthWestern Corporation's Form 8-K filed May 27, 2003 (period: May 23, 2003).
29. Attached to this Affidavit as **Exhibit 28** is a true and correct copy of NorthWestern Corporation's Form 8-K filed September 15, 2003 (period: September 12, 2003).
30. Attached to this Affidavit as **Exhibit 29** is a true and correct copy of Magten v. Hanson and Kindt, et al. Complaint and Demand for Jury Trial dated April 15, 2004.
31. Attached to this Affidavit as **Exhibit 30** is a true and correct copy of Magten Asset Management Corporation's Master Summary of Holdings (Magten (H&K) 000026-33) as of July 17, 2004.
32. Attached to this Affidavit as **Exhibit 31** are true and correct copies of (a) *Memorandum Decision* dated July 23, 2004 and (b) the Under Advisement Decision re: Motion to Dismiss dated August 20, 2004 each issued in *In re NorthWestern Corp.*, No. 03-12872 (CGC), 2004 WL 1661016, at *1 (Bankr. D. Del. July 23, 2004).
33. Attached to this Affidavit as **Exhibit 32** is a true and correct copy of Magten v. NorthWestern Corp. First Amended Complaint to Avoid the Transfer of Assets of Clark Fork and Blackfoot LLC dated October 4, 2004.
34. Attached to this Affidavit as **Exhibit 33** is a true and correct copy of selected excerpts from the deposition of Mary Lewicki dated May 2, 2007.
35. Attached to this Affidavit as **Exhibit 34** is a true and correct copy of selected excerpts from the deposition of Michael J. Hanson dated June 27, 2007.
36. Attached to this Affidavit as **Exhibit 35** is a true and correct copy of selected excerpts from the deposition of Ernie Kindt dated June 28, 2007.

37. Attached to this Affidavit as **Exhibit 36** is a true and correct copy of selected excerpts from the deposition of Talton R. Embry dated July 12, 2007.
38. Attached to this Affidavit as **Exhibit 37** is a true and correct copy of selected pages of Robert W. Berliner's expert report dated September 19, 2007.
39. Attached to this Affidavit as **Exhibit 38** is a true and correct copy of selected pages of Paul A. Marcus' expert report dated September 19, 2007.
40. Attached to this Affidavit as **Exhibit 39** is a true and correct copy of Stephen Scherf's expert Report dated October 17, 2007.
41. Attached to this Affidavit as **Exhibit 40** is a true and correct copy of selected pages of Christopher J. Kearns' expert report dated October 17, 2007.
42. Attached to this Affidavit as **Exhibit 41** is a true and correct copy of selected excerpts from the deposition of Robert W. Berliner dated November 8, 2007.
43. Attached to this Affidavit as **Exhibit 42** is a true and correct copy of selected excerpts from the deposition of Paul A. Marcus dated November 13, 2007.

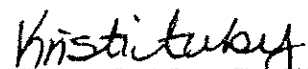
Further your affiant sayeth not.



Kimberly A. Beatty

Subscribed and sworn to before me this 29th day of November, 2007.

(Notarial Seal)



Notary Public for the State of Montana
Printed Name: Kristi Aaby
Residing at: E. Helena Montana
My Commission Expires: 11.30.2010

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on November 30, 2007, the attached **AFFIDAVIT OF KIMBERLY A. BEATTY IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT OF DEFENDANTS MICHAEL J. HANSON AND ERNIE J. KINDT** was electronically filed with the Clerk of the Court using CM/ECF which will send notification of such filing(s) to the following counsel of record:

Victoria Watson Counihan, Esquire
Greenberg Traurig, LLP

Dale R. Dube, Esquire
Blank Rome LLP

Kathleen M. Miller, Esquire
Smith, Katzenstein & Furlow LLP

In addition, the undersigned forwarded a copy of same in the manner indicated below to:

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/s/ Denise Seastone Kraft

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